

APPEAL NO. 022883
FILED DECEMBER 19, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 et seq. (1989 Act). A contested case hearing was held on July 23, 2002. In Texas Workers' Compensation Commission Appeal No. 022131, decided October 8, 2002, the Appeals Panel remanded the case "to consider the evidence of record when applying the correct standard found in [Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(4) (Rule 130.102(d)(4))]" and then to determine whether the [respondent] claimant is entitled to [supplemental income benefits (SIBs)] for the first quarter." The hearing officer, on remand, determined that the claimant was entitled to SIBs for the first quarter starting May 10 and ending August 8, 2002. The appellant (carrier) appealed on sufficiency of the evidence grounds and the claimant responded.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant was entitled to SIBs for the first quarter and that the claimant's unemployment was a direct result of the impairment from the compensable injury. Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Rule 130.102. The claimant contended that he had no ability to work during the qualifying period in dispute. Rule 130.102(d)(4) provides that an injured employee has made a good faith effort to obtain employment commensurate with the employee's ability to work if the employee has been unable to perform any type of work in any capacity, has provided a narrative report from a doctor which specifically explains how the injury causes a total inability to work, and no other records show that the injured employee is able to return to work.

The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)). The evidence sufficiently supports the hearing officer's determinations that the claimant had no ability to work during the qualifying period in dispute, that a narrative report from a doctor specifically explained how the injury caused a total inability to work, and no other records show that the injured employee is able to return to work.

We are satisfied that the challenged determination of the hearing officer is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **ASSOCIATION CASUALTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**HAROLD FISHER, PRESIDENT
3420 EXECUTIVE CENTER DRIVE, SUITE 200
AUSTIN, TEXAS 78731.**

Veronica Lopez
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Michael B. McShane
Appeals Panel
Manager/ Judge